

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GREGORY WATTERSON, Derivatively On
Behalf of RIVERSTONE NETWORKS, INC.,

Plaintiff,

vs.

ROMULUS PEREIRA, et al.,

Defendants,

-- and --

RIVERSTONE NETWORKS, INC., a
Delaware corporation,

Nominal Defendant.

No. C-03-0637-PJH

~~PROPOSED~~ FINAL JUDGMENT AND
ORDER OF DISMISSAL WITH PREJUDICE

DATE: June 1, 2005

TIME: 9:00 a.m.

COURTROOM: The Honorable
Phyllis J. Hamilton

1 This matter came before the Court for hearing pursuant to the Order of this Court, dated
2 February 16, 2005 ("Order"), on the application of the parties for approval of the settlement
3 ("Settlement") set forth in the Stipulation and Agreement of Settlement dated as of November 12,
4 2004 (the "Stipulation"). Due and adequate notice having been given to the Current Riverstone
5 Shareholders as required in said Order, and the Court having considered all papers filed and
6 proceedings had herein and otherwise being fully informed in the premises and good cause
7 appearing therefor, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

8 1. This Judgment incorporates by reference the definitions in the Stipulation, and all
9 capitalized terms used herein shall have the same meanings as set forth in the Stipulation.

10 2. This Court has jurisdiction over the subject matters of the Derivative Actions,
11 including all matters necessary to effectuate the Settlement, and over all parties to the Derivative
12 Actions including the Derivative Plaintiffs, the Current Riverstone Shareholders and the Defendants.

13 3. The Federal Action and all claims contained therein, as well as all of the Released
14 Claims, are dismissed with prejudice. As between Derivative Plaintiffs and Defendants, the parties
15 are to bear their own costs, except as otherwise provided in the Stipulation.

16 4. The Court finds that the Stipulation and Settlement are fair, just, reasonable and
17 adequate as to each of the Settling Parties, and hereby finally approves the Stipulation and
18 Settlement in all respects, and orders the Settling Parties to perform its terms to the extent the
19 Settling Parties have not already done so.

20 5. Upon the Effective Date, the Derivative Plaintiffs, Riverstone (as a nominal defendant
21 in the Derivative Actions), and each of the Current Riverstone Shareholders, on behalf of themselves
22 and each of their predecessors, successors, parents, subsidiaries, affiliates, custodians, agents,
23 assigns, representatives, heirs, estates, executors, trusts, trustees, trust beneficiaries, administrators,
24 spouses, marital communities, and immediate family members, shall be deemed to have, and by
25 operation of the Judgment shall have, fully, finally, and forever released, relinquished and
26 discharged all Released Claims (including all Unknown Claims), and any and all claims relating to
27 or arising out of or connected with the Settlement or resolution of the Derivative Actions, against all
28 of the Released Persons.

1 6. Upon the Effective Date, and except as provided in ¶13 below, the Derivative
2 Plaintiffs, Riverstone (as a nominal defendant in the Derivative Actions), and each of the Current
3 Riverstone Shareholders, and each of their predecessors, successors, parents, subsidiaries, affiliates,
4 custodians, agents, assigns, representatives, heirs, estates, executors, trusts, trustees, trust
5 beneficiaries, administrators, spouses, marital communities, and immediate family members, are
6 forever barred and enjoined from commencing, instituting or prosecuting any of the Released Claims
7 (including all Unknown Claims), or any action or other proceeding, against any of the Released
8 Persons, based on, arising out of, related to, or in connection with, the Released Claims (including all
9 Unknown Claims).

10 7. This Judgment and the dismissal of the Derivative Actions shall bar the prosecution,
11 derivatively on behalf of Riverstone, of any duplicative or similar claims as those set forth in, or that
12 could or might have been set forth in, the Derivative Actions or of any of the Released Claims.

13 8. Upon the Effective Date, each of the Released Persons shall be deemed to have, and
14 by operation of the Judgment shall have, fully, finally, and forever released, relinquished and
15 discharged each other, the Derivative Plaintiffs, each and all of the Current Riverstone Shareholders,
16 Riverstone (as a nominal defendant in the Derivative Actions), and Derivative Plaintiffs' Counsel,
17 from all claims (including all Unknown Claims) relating to or arising out of, or connected with the
18 institution, prosecution, assertion, settlement or resolution of the Derivative Actions and/or the
19 Released Claims. Specifically excluded from the releases in this paragraph is any right of
20 Riverstone's current and former officers and directors to receive (or obligation to repay)
21 indemnification or advancement of legal expenses arising from law and/or statute, Riverstone's
22 articles of incorporation and by-laws, any existing agreements, or any resolution (or otherwise) of
23 the Board of Directors of Riverstone; provided, however, that Riverstone shall not seek from its
24 former officers and directors repayment of payments made or defense expenses incurred by them or
25 on their behalf in the Derivative Actions.

26 9. The Court finds that the Notice of Pendency and Settlement of Derivative Action
27 ("Derivative Notice") and the Summary Notice for Publication of Settlement of Derivative Action
28 ("Summary Notice") (collectively, the "Notice"), given to Current Riverstone Shareholders was the

1 best notice practicable under the circumstances, including the individual Derivative Notice to all
2 Current Riverstone Shareholders who could be identified through reasonable effort. Said Notice also
3 provided the best notice practicable under the circumstances of these proceedings and of the matters
4 set forth therein, including the proposed Settlement set forth in the Stipulation, to all Persons entitled
5 to such notice, and said Notice fully satisfied the requirements of Federal Rule of Civil Procedure
6 23.1, due process, the United States Constitution, and all other applicable law.

7 10. Neither the Stipulation nor any document referred to therein nor any action taken to
8 carry out of the Stipulation is, may be construed as or may be used as an admission by or against the
9 Defendants, or any of them, of any fault, wrongdoing or liability whatsoever. Entering into or
10 carrying out the Stipulation (or the Exhibits thereto), and any negotiations or proceedings related
11 thereto, shall not in any event be construed as, or be deemed to be evidence of, an admission or
12 concession with regard to Derivative Plaintiffs' claims or contrary to the Defendants' denials and
13 defenses, and shall not be offered by any of the Settling Parties as evidence in any action or
14 proceeding in any court, administrative agency or other tribunal for any purpose whatsoever other
15 than to enforce the provisions of the Stipulation (and the Exhibits thereto) or the provisions of any
16 related agreement or release; except that the Stipulation and the Exhibits thereto may be filed in the
17 Derivative Actions or related litigation, as evidence of the Settlement, or in any subsequent action
18 against or by the Defendants or the Released Parties to support a defense of res judicata, collateral
19 estoppel, release or other theory of claim or issue preclusion or similar defense.

20 11. The Court finds that the Federal Action was filed in good faith and that no part hereto
21 violated the provisions of Federal Rule of Civil Procedure 11 during the course of the Derivative
22 Actions.

23 12. Without affecting the finality of this Judgment in any way, this Court hereby retains
24 continuing jurisdiction over: (a) implementation and enforcement of the terms of the Settlement and
25 this Judgment, and (b) the Settling Parties for the purposes of implementing and enforcing the
26 Stipulation and Judgment.

27 13. If the Effective Date fails to occur, then this Judgment shall be rendered null and void
28 to the extent provided by and in accordance with the Stipulation and shall be vacated and, in such

1 event, all orders entered and releases delivered in connection herewith shall be null and void to the
2 extent provided by and in accordance with the Stipulation.

3 IT IS SO ORDERED.

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5 DATED: July 22, 2005


THE HONORABLE PHYLLIS J. HAMILTON
UNITED STATES DISTRICT JUDGE

7 Submitted by:

8 MURRAY FRANK & SAILER LLP
9 ERIC J. BELFI
275 Madison Avenue, Suite 801
10 New York, NY 10016
Telephone: 212/682-1818
11 212/682-1892 (fax)

12 EMERSON POYNTER LLP
JOHN G. EMERSON
13 SCOTT E. POYNTER
2228 Cottdale Lane, Suite 100
14 Little Rock, AR 72202
Telephone: 501/907-2555
15 501/907-2556 (fax)

16 ROBBINS UMEDA & FINK, LLP
BRIAN J. ROBBINS
17 MARC M. UMEDA
610 West Ash Street, Suite 1800
18 San Diego, CA 92101
Telephone: 619/525-3990
19 619/525-3991 (fax)

20 LERACH COUGHLIN STOIA GELLER
RUDMAN & ROBBINS LLP
21 KEITH F. PARK
MICHAEL J. DOWD
22 JEFFREY D. LIGHT

23
24 
JEFFREY D. LIGHT

25 401 B Street, Suite 1600
26 San Diego, CA 92101
Telephone: 619/231-1058
27 619/231-7423 (fax)
28

1 THE DREHER LAW FIRM
2 ROBERT SCOTT DREHER
3 835 Fifth Avenue, Suite 202
4 San Diego, CA 92101
5 Telephone: 619/230-8828
6 619/687-0136 (fax)

7 Attorneys for Plaintiffs

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